Item 996-B
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97TH CONGRESS } SENATE { TREATY DOC.
1st Session } { No. 97-20

AGREEMENT EXTENDING FOR EIGHT MONTHS PROVISIONS OF THE TREATY OF FRIENDSHIP AND COOPERATION WITH SPAIN

COMPLETED
ORIGINAL

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND SPAIN, EFFECTED BY AN EXCHANGE OF NOTES AT MADRID ON SEPTEMBER 4, 1981, EXTENDING FOR A PERIOD OF EIGHT MONTHS THE RIGHTS, DUTIES, AND OBLIGATIONS OF THE TWO COUNTRIES UNDER THE TREATY OF FRIENDSHIP AND COOPERATION OF JANUARY 24, 1976, 27 U.S.T. 3005, T.I.A.S. 8360 (THE TREATY)

OCTOBER 14, 1981.—Agreement was read the first time and, together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE
89-118 O WASHINGTON: 1981

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LETTERS OF TRANSMITTAL

THE WHITE HOUSE, *October 9, 1981.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I herewith transmit an agreement, effected by an exchange of notes at Madrid on September 4, 1981, extending for a period of eight months commencing September 21, 1981, the rights, duties, and obligations of the Parties under the Treaty of Friendship and Cooperation of January 24, 1976 between the United States of America and Spain, 27 U.S.T. 3005, T.I.A.S. 8360 (the Treaty).

I transmit also, for the information of the Senate, the report of the Department of State with respect to the agreement.

The agreement would extend, until May 21, 1982, the rights, duties, and obligations of the Treaty, which by its terms expired on September 21, 1981. During that time, negotiations will continue on a successor agreement to the Treaty; it is expected that, by the time these negotiations are concluded, Spain will have completed the process of accession to the North Atlantic Treaty of April 4, 1949 (63 Stat. 2241; T.I.A.S. 1964). The agreement would preserve in force on an interim basis United States rights regarding access to and use of important military facilities in Spain, and otherwise continue the significant cooperative relationship now existing between the two countries under the provisions of the Treaty. This action is necessary in order to regularize the legal relationship between the United States and Spain in the post-September 21 period, and thereby to facilitate the current negotiations. I recommend that the Senate give prompt and favorable consideration to this agreement.

RONALD REAGAN.

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LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, September 25, 1981.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit an agreement between the United States of America and Spain, effected by an exchange of notes at Madrid on September 4, 1981, extending for a period of eight months the rights, duties, and obligations of the two countries under the Treaty of Friendship and Cooperation of January 24, 1976 (27 U.S.T. 3005, T.I.A.S. 8360; hereinafter: "the Treaty"). I recommend that the agreement be submitted to the Senate for its advice and consent to ratification.

The agreement arises from the negotiations currently underway with Spain on a successor agreement to the Treaty, which by its terms expired on September 21 of this year. The United States announced its readiness to commence negotiations in August, 1980, but actual negotiations were only able to be initiated in May of this year. Since that time, there have been five rounds of intense negotiations, and much has been accomplished. At the same time, it became clear both to the United States and to Spain that, owing to the complexity of the subject matter and, more recently, Spain's announcement of its intention to proceed with its application for membership in the North Atlantic Treaty Organization, it would not be possible for the negotiations to be brought to a conclusion prior to the expiration of the Treaty on September 21. Under these circumstances, agreement has been reached upon an extension of the rights, duties, and obligations of the Parties under the Treaty for an additional period of eight months, commencing on September 21 of this year. This agreement is embodied in the enclosed exchange of notes of September 4, 1981.

Article VII of the Treaty provides that, after an initial period of force of five years, the Treaty "may be extended for an additional five year period if the parties so agree." The Senate resolution of June 21, 1976, advising and consenting to the ratification of the Treaty, is expressly limited to only the initial period of force of the Treaty, "so that any United States agreement to an extension of the Treaty shall require the further advice and consent of the Senate". Article VII of the Treaty, although referring specifically only to an extension of five years, necessarily would encompass extension for a lesser period, and this is reflected in the express reference to Article VII contained in the enclosed exchange of notes. Inasmuch as the Senate resolution of June 21, 1976 contains no words of limitation

that would exclude extensions of less than five years, it has been determined that formal entry into force of the September 4, 1981 agreement will also require the advice and consent of the Senate.

Under the agreement, the United States will continue in the enjoyment of its rights in Spain under the Treaty through May 21, 1982. Principal among these rights are those concerning United States access to, and use of, important military facilities in Spain. In addition, the agreement would continue in effect the entire range of bilateral cooperative activities and programs established pursuant to the Treaty. No substantive alteration in any of these existing rights, duties, or obligations of either the United States or Spain would be entailed.

During the eight month period provided for in the enclosed agreement, negotiations will proceed on a new bilateral agreement replacing the current Treaty. It is expected that agreement will be reached prior to the end of that period. Moreover, it is anticipated that the process of Spanish accession to the North Atlantic Treaty of April 4, 1949 (63 Stat. 2241; T.I.A.S. 1964) will have been completed during that time. Such Spanish accession will involve a protocol to the North Atlantic Treaty requiring the advice and consent of the Senate to ratification. Under those circumstances, a new bilateral successor agreement to the current Treaty would be concluded as an Executive agreement, in keeping with United States practice with regard to comparable agreements with all other members of the North Atlantic Treaty Organization.

Nothing in the enclosed agreement will require the enactment of implementing legislation.

Respectfully submitted.

WILLIAM P. CLARK,
Acting Secretary of State.

EMBASSY OF THE UNITED STATES OF AMERICA,
Madrid, September 4, 1981.

HIS EXCELLENCY JOSE PEDRO PEREZ-LLORCA,
Minister of Foreign Affairs, Madrid.

EXCELLENCY: With regard to the negotiations currently in progress between our two Governments on a successor agreement to the Treaty of Friendship and Cooperation, signed at Madrid on January 24, 1976, and taking into account the new situation arising from Spain's having initiated the constitutional steps for its accession to the North Atlantic Treaty, as well as the shared opinion of our two delegations to the effect that, notwithstanding their notable progress to date, it will not be possible to conclude these negotiations prior to the expiration of said Treaty on the 21st of this month, I have the honor to inform you that my Government proposes that our two Governments, consistent with the provisions of Article VII, agree on an additional period of eight months, commencing on the date of expiration of the Treaty, within which to conclude those negotiations, and that, during such eight-month period, the rights, duties and obligations of the Parties currently deriving from the Treaty and its associated agreements remain in effect.

I have the further honor to propose to you that, should the foregoing be acceptable to the Government of Spain, this Note and your

Note in reply communicating your acceptance constitute an agreement between our two Governments, which will enter into force only upon the date on which both Parties communicate in writing that their respective applicable constitutional requirements have been satisfied, but which will apply provisionally from the date of your Note in reply and during the time in which the above-mentioned requirements are being met.

I avail myself of this opportunity to reiterate to Your Excellency the assurances of my highest and most distinguished consideration.

TERENCE A. TODMAN.

The Spanish State
Province and City of Madrid } SS:
Embassy of the United States of America

I, the undersigned consular officer of the United States of America, duly commissioned and qualified, do hereby certify that the foregoing is a true and faithful copy of the original thereof, as the same was exhibited to me, the said original having been carefully examined by me and compared with the said original, and found to agree therewith in word for word and figure for figure.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of the American Consular Service at Madrid, Spain, this 10 day of September, 19 81

Deborah A. Bolton

DEBORAH A. BOLTON
CONSUL

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Madrid, 4 de septiembre de 1981

S.E. Señor D. Angel Calzada

Excelentísimo Señor:

Tengo la honra de referirme a su Nota de fecha 4 de septiembre de 1981, en la que me comunica lo siguiente:

"En relación con las negociaciones actualmente en curso entre nuestros dos Gobiernos sobre un Acuerdo que sustituya al Tratado de Amistad y Cooperación firmado en Madrid el 24 de enero de 1976, y tomando en cuenta la nueva situación derivada de que España ha iniciado los trámites constitucionales para su adhesión al Tratado del Atlántico Norte, así como la opinión conjunta de las dos Delegaciones en el sentido de que, no obstante los notables progresos que han realizado hasta la fecha, no será posible concluir estas negociaciones antes de que expire dicho Tratado el 21 del presente mes, tengo el honor de comunicar a V.E. que mi Gobierno propone que nuestros dos Gobiernos, al amparo de lo establecido en el Artículo VII de dicho Tratado, convengan en un período adicional de ocho meses, contados a partir de su fecha de expiración, para concluir dichas negociaciones; y que, durante dicho período de ocho meses, los derechos, deberes y obligaciones de las Partes que actualmente se derivan del Tratado y de sus Convenios anejos, permanezcan en vigor.

Tengo además el honor de proponer a V.E. que si lo anteriormente dicho es aceptado por el Gobierno de España,

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El Excmo. Sr. Secretario de Estado

esta Nota y la Nota de V.E. comunicándome su aceptación constituyen un Acuerdo entre nuestros dos Gobiernos que sólo entrará en vigor en la fecha en que ambas Partes se hayan comunicado por escrito que sus respectivos requisitos constitucionales han sido cumplidos, aplicándose con carácter provisional desde la fecha de su Nota de contestación y durante el tiempo en que se cumplimenten los citados requisitos".

Deseo manifestar a V.E. que el Gobierno de España expresa su conformidad con el texto de dicha Nota.

Acepte, Señor Embajador, el testimonio de mi alta consideración.

José Pedro Pérez-Llorca

Certified true copy of signed original

Excelentísimo Señor
Terence A. Todman
Embajador de los Estados Unidos de América
Madrid.

DEPARTMENT OF STATE,
DIVISION OF LANGUAGE SERVICES,
[*Madrid, September 4, 1981*].

SIR: I have the honor to refer to your note of September 4, 1981, in which you communicate the following to me:

[The Spanish translation of the above-mentioned note agrees in all substantive respects with the original text.]

I wish to inform Your Excellency that the Government of Spain expresses its conformity with the text of the aforesaid note.

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Accept, Mr. Ambassador, the expression of my highest consideration.

JOSE PEDRO PEREZ-LLORCA.

[Note addressed to U.S. Ambassador in Madrid.]

CERTIFICATION OF TRANSLATION

I hereby certify that the above translation bearing LS No. 103840 was prepared by the Division of Language Services of the Department of State and that it is a correct translation to the best of my knowledge and belief.

Dated: September 21, 1981.

JORGE R. PEREZ,
Assistant Chief, Translating Branch.

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